IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2711 OF 2007

Mohal Taluka Sahakari Shikshan
Prasarak Mandal & Ors. .. Petitioners

Versus

The Asstt.Charity Commissioner
and Ors. .. Respondents

Mr.N.P.Shimpi for petitioners
Ms.Mhaispurkar, A.G.P. for State
Mr.Shrishal Sakhare for respondent Nos.3, 7 & 8.
Mr.S.S.Shah for respondent Nos. 4 to 6.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 10th December 2007

P.C.

. This petition is directed against refusal of the Dist.Judge, Solapur to give any interim protection to the petitioner during pendency of the application No.14 of 2007.

2. Before me a contention is raised by Mr.Shah appearing for the respondent Nos. 2 to 8

original applicants before the Assistant Charity Commissioner that the appeal is not maintainable. The appeal is directed against an order dated 21st December 2006 which does not frame any scheme. All that the order directs is that the Inspector in the Charity Commissioner's office must initiate steps for making of a suo motu scheme. After the matter was heard for some time, in my view, it would be appropriate if all issues raised in the present petition are kept open for being raised before Assistant Charity Commissioner, Solapur. There would be duplication of proceedings if the same issue is again allowed to be agitated before the Dist.Court inasmuch as the proceedings before the Assistant Charity Commissioner have not attained finality. In such circumstances, the Assistant Charity Commissioner to first decide as to whether the petitioner No.1 before me who is objecting party, is a Trust or Coop.Society registered under the C.S.Act and if it is a

Coop.Society what jurisdiction does the officer appointed under the Bombay Public Trusts Act, 1950 have to proceed and frame scheme insofar as petitioner No.1 is concerned. This issue will have to be decided by the Assistant Charity Commissioner without in any manner being influenced by his earlier observations so also this court disposing of the appeal/application before the Dist.Court. unless and until this objection is decided and ruled upon, Assistant Charity Commissioner should not proceed and frame the scheme. All contentions of parties in that behalf are kept open. Petition disposed of.

(S.C.Dharmadhikari, J)